



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2016-0018]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 8, 2020, Union Pacific Railroad Company (UP) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-Of-Train Devices. In addition, UP requests an exemption from the requirements of title 49, United States Code (U.S.C.), section 20303, which prohibits the movement of a rail vehicle with defective or insecure equipment beyond the nearest available place at which the repairs can be made. *See* 49 U.S.C. 20306. FRA assigned the petition to existing Docket Number FRA-2016-0018.

Specifically, UP seeks a waiver of compliance from 49 CFR 232.213, *Extended haul trains*; 49 CFR 232.15, *Movement of defective equipment*; and 49 CFR 232.103(f), *General requirements for all train brake systems*. UP is requesting a 5-year waiver from these requirements for intermodal trains (and other train types as permitted and authorized by FRA) to demonstrate that the use of wheel temperature detectors (WTD) to determine brake effectiveness improves safety and eliminates unnecessary costs to the industry.

UP has collected performance data for approximately two years of the five-year

pilot period granted by FRA in this docket for unit coal trains between the Powder River Basin in Wyoming and White Bluff, Arkansas. UP states that this pilot waiver has demonstrated significant positive trends in the expected areas of observation. *See* Petition, Appendix 2, <https://www.regulations.gov/document?D=FRA-2016-0018-0015>. UP further states that while the White Bluffs pilot is limited in scope, expansion of operations with a similar type of pilot program at this juncture, given the favorable observations, would advance operating safety and improve other fleet conditions.

UP explains that wayside WTDs offer an alternative means to verify good braking performance. WTDs directly measure the rise in wheel temperature as a result of a brake application. Such a measure of performance is objective and quantifiable, and is independent of conditions that can impair a visual inspection; such as weather, lighting and human fatigue, inexperience, or error. A monitoring system using WTD data as an alternative to the intermediate brake inspections, whether Class IA or extended haul, while still retaining all other brake system safety assurance procedures, is expected to substantially improve the reliability of brake inspections, and thus the safety performance of brake systems.

For the White Bluff pilot test waiver trains to date, UP reports WTD alerts per million miles has reduced by 74% from October 2018 through May 2020, indicating significant improvement in the overall condition of train braking systems. Wayside alerts have driven 1.5 times more “bad orders” for brakes to the repair track than have non-waivered cars operating outside of cold wheel alert allowances. As a result, cold wheel alerts have driven attention to “key” repairs (which include control valves, miscellaneous valve subsystems, air components, brake rigging, and slack adjusters) to 25% higher than

other cars.

UP also requested an exemption from 49 U.S.C. 20303. FRA may grant an exemption from the requirements of § 20303 only based on (1) evidence developed at a hearing; or (2) an agreement between national railroad labor representatives and the developer of the equipment or technology at issue. *See* 49 U.S.C. 20306. FRA notes that the public hearing previously held to address UP's similar request for exemption in this docket addresses substantially the same issues as its current request. *See* <https://www.regulations.gov/document?D=FRA-2016-0018-0011>. In considering UP's present request, FRA intends to rely on the findings of the hearing conducted in this docket.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.

- Mail: Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave., SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also

<https://www.regulations.gov/privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

